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C O N F I D E N T I A L SEOUL 001753

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TAGS: PGOV MARR KS  
SUBJECT: ROUND III OF US-ROK SMA NEGOTIATIONS

Classified By: POL M/C Joseph Y. Yun. Reasons 1.4 (b/d).

**¶1.** (C/NF) SUMMARY: At the third round of SMA negotiations (August 28-29) the ROK lead negotiator, Ambassador Cho Byung-jae, restated the position he had put forth in the previous round on July 21. He said the ROKG would seek an 8 percent reduction in the overall SMA contribution and wanted rapid (1-2 year) movement from cash to in-kind construction programs. With USFK's approval, Ambassador Jackson McDonald stated that the U.S. was willing to consider a graduated shift from cash to in-kind (up to 60 percent over 5 years) provided the ROKG agreed to a process for execution of in-kind construction that maintained the USFK Commander's control over the selection, design and prioritization of the construction projects. Cho repeatedly emphasized the ROKG's need to reduce the "political liability" of the SMA, especially in the wake of the anti-U.S. beef protests over the summer. McDonald cautioned that before the U.S. could seriously consider a major increase in the in-kind program, the ROKG would need to find a way to resolve a problem with execution of the previous in-kind Combined Defense Improvement Projects (CDIP) program. Cho said that he appreciated the U.S. willingness to discuss moving from cash to in-kind but pushed back on the CDIP problem, claiming that it fell outside of his mandate. (Note: During a one-on-one breakfast requested by Cho, he confided to Ambassador McDonald that CDIP was a very "hot" issue within the ROKG that could end up in an audit or investigation into MND's use of these funds.) Cho demonstrated no flexibility on the total amount of the SMA contribution and pressed for rapid acceleration of the in-kind program to 90 percent by 2010. The two delegations agreed to meet again September 24-25 for further talks in Washington. In the interim, they concluded that relevant officials from USFK, the Embassy, MOFAT and MND would meet to develop procedures the U.S. would require before agreeing to a significant increase in the in-kind category. In a one-on-one dinner requested by Cho after the talks, he told McDonald that the ROKG would need to "find a way" to resolve the CDIP problem outside of the SMA and telegraphed that he would increase the total amount of the ROK proposal in future rounds. END SUMMARY.

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SAME OPENING NOTES  
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**¶2.** (C) Ambassador Cho opened the negotiations noting the lack of progress on the ROKG's proposed increase of in-kind

contributions and lack of consensus on total funding levels for 2009. Cho repeated the ROKG's domestic political concerns about as yet unspent SMA funds totaling approximately USD 1 billion. He also repeated that the ROKG did not accept USFK's position that SMA funds could be used for implementation of the Land Partnership Plan (LPP). (Note: In private, Cho and other ROKG officials have made it clear that they will in fact not/not challenge the U.S. on that point.) Cho stressed that political realities made it very difficult to explain to the public why the ROK must provide more funds to USFK when USD 1 billion in ROK contributions remain unspent. Cho noted that the ROK could show more flexibility in the future if these political liabilities were removed. He agreed that a shift to an increase of in-kind contribution would require time to develop, but said he could not accept the U.S. position that it would take five years or more to move to a largely in-kind contribution system. Cho also offered to form a working group to further study the formula for determining USFK's non-personnel stationing costs (NPSC) which is the basis for calculating the percentage of the ROK SMA contribution.

¶3. (C) Ambassador McDonald expressed regret that Cho had chosen to rehash the same complaints delivered at the previous SMA round in Washington on July 21. McDonald rebutted Cho's points, noting that the USG had made it clear from the outset that it would use SMA funds for LPP. He said the U.S. shared the ROK'S dissatisfaction that SMA funds had not yet been spent but pointed out that those delays were due primarily to the inability of the ROKG to make the land available to USFK in a timely manner. Ambassador McDonald said he could guarantee that those funds would be significantly drawn down over the next two years as construction of the new expanded U.S. Army Garrison (USAG) Humphreys got underway.

¶4. (C) In response to Cho's claim about the NPSC formula, McDonald emphasized that it had been in use for many years and that the use of such a formula was a U.S. legal requirement that could not be ignored. He said the U.S would, however, be happy to explain the figures used to determine the NPSC in greater detail to the ROK. Cho replied that the ROKG welcomed the formation of a working group to discuss the NPSC formula, asking that the USG work with his staff to identify ways to better capture the full measure of the ROK's in-kind contributions.

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ROK PUSH FOR IN-KIND  
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¶5. (C) Throughout the discussions, Ambassador Cho pressed hard for a significant shift from cash to in-kind contributions. He defined in-kind contributions as providing needed facilities to USFK through ROK financed construction projects under the SOFA. "In the end you want the facilities," he said, citing the Japan Facilities Improvement Program (JFIP) as a model that the ROK would like to adopt. Cho proposed a one-year period to develop and draft a plan to transition to 90 percent in-kind and 10 percent cash contributions starting in 2010. Asked why he felt it made a difference to Korean taxpayers whether their government gave cash to USFK, which then went to Korean construction companies, or paid it directly to those same companies, Cho replied that cash transfers were far more of a political liability for the ROKG; a political liability he made it clear he was tasked to address and remove.

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USFK PRINCIPLES FOR IN-KIND  
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¶6. (C) With USFK's approval, Ambassador McDonald responded to Cho's need to discuss a shift to in-kind construction by sketching out the possibility of a graduated increase in the amount of in-kind from 15 to 60 percent over a five-year agreement (2009-2013). He then outlined various principles that would need to be incorporated into the new in-kind

procedures. First, he said that in-kind contributions would continue to fall under the SMA, and not under the SOFA, as the ROKG had proposed. Second, the U.S. would select and prioritize the construction projects that would be funded based on USFK's military needs. Third, the U.S. would also be responsible for the project design and would provide those designs, along with a list of eight to ten pre-approved contractors from which the ROKG could select. Payment for design, supervision, and oversight would not be handled through in-kind but, instead, would remain a cash contribution as is the case today. Fourth, if the winning contractor was able to complete the project under bid, the savings would be rolled over into other projects, rather than being returned to the ROKG. Fifth, the ROKG would need to develop a system that would allow rollover of unused funds to prevent a loss of funds due to the one-year Korean government budget system. Finally, the USG and ROKG would have to develop a system to review the execution of the in-kind program with the option to revert to cash contributions if the program is deemed successful.

¶7. (C) Cho elected not to respond to the principles as laid out by Ambassador McDonald but said he would take them on board and study them. He did, however, express concern that the proposal was far from ROK expectations for a rapid shift to in-kind and queried when the U.S. proposed that the ROK would reach the 90 percent in-kind level. Cho also repeated the ROK assertion that in-kind construction projects could and should be handled under the SOFA rather than through the SMA.

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RESOLVING CDIP  
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¶8. (C) Ambassador McDonald, with support from USFK, made it clear to the Korean delegation that before the U.S. could consider a large increase in the in-kind portion of the SMA contribution the ROK would need to find a way to make good on the USD 200 million unexecuted CDIP funds from CY02-06 that it has thus far failed to deliver. McDonald emphasized that the U.S. was reluctant to increase in-kind contributions if that serious problem remained unresolved. (Note: Needed projects the USG plans to execute with these funds include a second runway at Osan Air Base and improvements to the Hardened Tactical Air Coordination Center (HTACC), also at Osan.)

¶9. (C) Cho pushed back on addressing the CDIP issue, stating that he had no mandate to discuss it. He suggested that it was unwise to link CDIP to SMA discussions and argued that the problems with CDIP were not typical of past in-kind projects and that ROK has had many successes in providing in-kind facilities to USFK. Members of the U.S. delegation, including the lead USFK engineer disputed that, pointing out that there had been significant problems with three out of the four current in-kind programs.

¶10. (C) Cho stated that the issue should be resolved outside of the SMA framework between USFK and MND and called on Ambassador McDonald to work with him to create a new mechanism to better manage future in-kind programs. He suggested that the CDIP problem would more appropriately be addressed at the Security Policy Initiative (SPI) talks scheduled for September 10. McDonald replied that Ambassador Cho himself did not need to solve the problem if he did not wish to, but that someone in the ROKG would have to do so. He pointed out that, as part of the existing SMA, CDIP clearly did fall within their mandate but acknowledged that the USG would accept if the problem were resolved through the SPI. He warned that if the problem was only referred to at SPI but was not resolved it would most likely be elevated to the ministerial-level Security Consultative Meeting (SCM) on October 17. Ambassador McDonald and General Panter expressed USFK's willingness to show some flexibility on the CDIP issue but insisted that it be seriously addressed by the ROKG.

TOTAL FUNDING LEVEL

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¶11. (C/NF) Cho displayed little flexibility or willingness to increase the overall funding level of the ROK proposal for 2009 and beyond, stating that he thought it was more important at this stage to discuss how to structure future in-kind programs. (Note: At the subsequent, one-on-one dinner, however, he intimated that he was prepared to increase the ROK offer somewhat in due course). In front of his colleagues, Cho argued that the ROK sought to pay "a fair share" and not necessarily an "equitable" one. He cited significant ROK investments in YRP, LPP, preparations for OPCON transfer and the ROK defense budget as other forms of Alliance burden sharing where South Korea was making significant contributions. Cho stated that although Japan might pay 75 percent of its SMA, he noted that Japan's economy was much larger than Korea's. In relative terms, Korea does not pay less than Japan, he argued. Citing ROK domestic constraints, Cho argued that the U.S. must help to create a more favorable political and economic environment before expecting the ROK to contribute significantly more. He said that if the U.S. would adopt a more rapid shift to in-kind contributions, it would reduce the political liabilities associated with the SMA.

¶12. (C) Cho stated that the ROK position on the 2009 funding level was not final and would depend on the amount of flexibility shown by the U.S. on in-kind contributions. Cho questioned why USFK wanted a gradual shift to in-kind and advocated the ROK's expectation for a rapid shift to in-kind contributions.

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DURATION

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¶13. (C) Cho insisted that extension of the current SMA for one year (2009) would allow sufficient time to negotiate a new in-kind arrangement that would transform the current 90 percent cash/10 percent in-kind arrangement to a 10 percent cash/90 percent in-kind structure by 2010.

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DATES SET FOR ROUND IV

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¶14. (C) The two delegations agreed to reconvene on September 24-25 in Washington for a fourth round of negotiations. In the interim, they agreed that relevant officials from USFK, the Embassy, MOFAT and MND would begin exploring the appropriate mechanisms and procedures that would allow for increased in-kind contributions that meet U.S. requirements.

¶15. (U) This message has been cleared by Ambassador McDonald.  
VERSHBOW